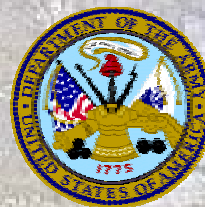


# Central Region Review



## U.S. Army Environmental Center Central Regional Office Kansas City, Missouri



★ FEBRUARY 2003 ★

★ REGIONS 6 & 7 ★

The *CENTRAL REGION REVIEW* provides current information on significant federal and state legislative and regulatory developments in Federal Regions 6 and 7. The *REVIEW* is prepared by Versar, Inc., in support of the Central Regional Environmental Office, to assist you in your compliance efforts. Current and past issues of this *REVIEW*, as well as regional updates and alerts, are available on the Internet at <http://aec.army.mil/usaec/reo/creo00.html>. Please email [CREO.Regulatory.Specialist@nwk02.usace.army.mil](mailto:CREO.Regulatory.Specialist@nwk02.usace.army.mil) or phone (816) 983-3444 if you have any questions or suggestions, or if you would like to subscribe to the *REVIEW*.

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### GENERAL INFORMATION

**EPA Watershed-Based NPDES Permitting Policy Statement.** On 7 January 2003, the EPA signed the Watershed-Based NPDES Permitting Policy Statement, which describes the benefits of watershed-based permitting, the implementing mechanisms for this component of the watershed approach, and how the EPA will be encouraging an increase in the use of watershed-based NPDES permits. A copy of the policy statement is available at <http://www.epa.gov/owow/watershed/regulations.html>.

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### REGIONAL MEETINGS

**Region 7 P2 Roundtable Meeting.** This meeting is scheduled for **12-14 May 2003** in **Kansas City, Kansas**. For further information, please contact the Army Region 7 REC at (816) 983-3445.

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## TRAINING COURSES AND WORKSHOPS

**MDNR Workshops for Online Emissions Inventories.** MDNR's Environmental Assistance Office will be offering workshops for users of Missouri's new online Emissions Inventory Questionnaire system in 2003. The Internet-based system for entering emission inventory data will be available for businesses to use for their calendar 2002 emissions reporting. Workshop locations and dates are being finalized. When the workshops are scheduled, they will be announced at <http://www.dnr.state.mo.us/oac/calendar.htm>. For more information, please contact Omer Roberts, MDNR, at (800) 361-4827 or at (573) 526-6627.

**EPA Environmental Response Training Program.** The latest information on all ERTTP training is available at <http://www.ertresponse.com/Training/index.htm> (including specific locations of the training). For further information, please contact Patricia Maxwell, EPA, at [Maxwell.Patricia@epamail.epa.gov](mailto:Maxwell.Patricia@epamail.epa.gov).

**TCEQ Composting Workshops.** TCEQ workshops on the beneficial use of compost show how to save money and get better results from landscaping. Upcoming workshops are scheduled for the following dates:

- **6 February 2003** in **Brownsville, Texas**
- **13 February 2003** in **Fort Worth, Texas**
- **20 February 2003** in **Lubbock, Texas**
- **6 March 2003** in **Terrell, Texas**.

For further information, please visit <http://www.tnrcc.state.tx.us/exec/oppr/compost/workshops.html>, or call (512) 239-6780.

**Hazardous Waste Manifesting/DOT Certification and Recertification Courses.** The 36-hour initial training course provides the necessary information under RCRA and DOT regulation to properly manifest hazardous wastes offsite. The course covers waste classification, waste profiling, LDR notification requirements, universal waste, used oil, asbestos and PCB shipping requirements, as well as how to determine a DOT shipping name, proper marking, labeling, placarding and packaging requirements. The course is scheduled for **17-21 March 2003** in **San Diego, California**. The recertification course provides general awareness/familiarization and function-specific training pertaining to the requirements of DOT Hazardous Materials Regulations including identification of proper shipping name; hazard class; and marking, labeling, packaging and placarding requirements. The course is scheduled for **18-19 March 2003** in **San Diego, California**. Both courses are part of the USACE Prospect Program. For further information, please contact Joy Rodriguez, USACE, at (256) 895-7448 or [sandi.m.zebrowski@usace.army.mil](mailto:sandi.m.zebrowski@usace.army.mil).

**DSMOA Workshops.** The DSMOA training workshops will focus on teaching a standardized approach to the 6-Step Cooperative Agreement process and promoting a productive dialogue between members of the DSMOA program. The workshop with Region 7 participating states (Nebraska, Kansas and Missouri) is scheduled for **18-19 March 2003** in **Colorado Springs, Colorado**. The workshop with Region 6 participating states (New Mexico, Texas, Louisiana, Oklahoma) is scheduled for **22-23 April 2003** in **San Antonio, Texas**. For further information, please visit <http://www.denix.osd.mil/denix/State/DSMOA/news.html> or contact John Pike at (214) 767-4671 or [john.pike@brooks.af.mil](mailto:john.pike@brooks.af.mil).

**CECOS Environmental Negotiation Workshop.** This course provides instruction on the negotiating and communication skills necessary to establish productive relationships and achieve beneficial agreements with regulatory and public stakeholders. The course stresses the human, organizational and public interaction aspects of building constructive relationships with stakeholders in order to obtain mutually beneficial decisions in environmental decision making. The course is scheduled for **18-20 March 2003** in **Silverdale, Washington**, and **20-22 May 2003** in **Jacksonville, Florida**. For further information, please visit <https://www.cecocos.navy.mil/> or contact David Bell, CECOS, at (805) 982-6528.

**Army Environmental Training Symposium/Workshop.** The first ever Army Environmental Training Symposium/Workshop is scheduled for **24-28 March 2003** in **Kansas City, Missouri**. The workshop will primarily consist of numerous environmental short courses and seminars, and is intended to provide (1) awareness and training in Army environmental programs and specific environmental subject areas, (2) preparation for the new installation management business models (i.e., TIM and EMS), and (3) improved installation staff opportunities to obtain program updates and share lessons learned. The workshop will focus on installation level requirements. For

further information, please contact Susan West, U.S. Army Training and Doctrine Command, at (757) 788-2279 or [wests@monroe.army.mil](mailto:wests@monroe.army.mil); or contact Susan Thomas, USAEC, at (410) 436-6899 or [Susan.Thomas@aec.apgea.army.mil](mailto:Susan.Thomas@aec.apgea.army.mil).

**CHPPM Health Risk Communication Workshops.** CHPPM is offering introductory and intermediate health risk communication workshops in 2003 throughout the country. The workshop will show you how to identify, build, maintain and utilize strategic partnerships and plans that will support your organization's mission now and in the future. There are no workshops scheduled in Region 7 for 2003, but there is an Intermediate Health Risk Communication workshop scheduled in Region 6 for **12-15 May 2003** in **San Antonio, Texas**. For more information, please visit <http://chppm-www.apgea.army.mil/risk>, or contact Suaquita Perry, CHPPM, at (410) 436-3515.

**12th Annual ITAM Workshop.** The theme for the 2003 ITAM Workshop is "Common Dirt – Make It Work." For the fifth consecutive year, the workshop will include a GIS Day. The theme for GIS Day is "Supporting Military Readiness Through GIS." Hosted by Fort Bliss, Texas, the workshop is scheduled for **18-23 August 2003** in **El Paso, Texas**. For further information, please visit <http://www.army-itam.com/workshop/12th/workshop.jsp>.

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## CONFERENCES AND SYMPOSIUMS

**Kansas Works! 2003 Conference.** Two Kansas conferences on solid waste management – Works! and HHW – have merged into one. The Works! 2003 conference on recycling, composting and household hazardous waste is scheduled for **18-20 March 2003** in **Winfield, Kansas**. The conference will include opportunities to learn about source reduction, recycling, composting, and household hazardous waste. For more information, please contact Rob Bradford at (800) 282-9790 or (785) 296-1600.

**5th Environmental Technology Symposium and Workshop.** The year's theme, "Tomorrow's Solutions Today," focuses on installation user requirements, needs and the transfer of methodologies and technologies that help DoD installations keep in compliance with regulatory guidance, reduce pollution, conserve natural resources, and restore DoD land. The symposium is scheduled for **24-28 March 2003** in **Charlotte, North Carolina**. For more information, please visit <http://www.ets2003.com>; or contact Technical Resources International at (301) 897-7481 or [confdept@tech-res.com](mailto:confdept@tech-res.com).

**National Pollution Prevention Roundtable Spring Conference.** The P2 Roundtable will bring together the most preeminent pollution prevention practitioners and experts to share the latest in policy, regulatory and technical information. The meeting will feature special tracks on EMSs and P2, international sustainability policy discussions as a follow-up to the World Summit, and P2's role in addressing global climate change challenges. The conference is scheduled for **4-11 April 2003** in **Louisville, Kentucky**. For further information, please visit <http://www.p2.org/events/spring2003>.

**NDIA's 29th Environmental and Energy Symposium and Exhibition.** This symposium will provide a national forum for the exchange of technical information, government policy, regulations, programs and laws, and new ideas on environmental and energy issues and areas of concern. The symposium is scheduled for **7-10 April 2003** in **Richmond, Virginia**. For further information, please contact Derek Jenks, NDIA, at [djenks@ndia.org](mailto:djenks@ndia.org) or visit <http://register.ndia.org/interview/register.ndia?~Brochure~3440>.

**2003 Region 7 Environmental and Safety Symposium.** This symposium is a business and industry-focused conference that reaches beyond the compliance stage and into environmental policy and corporate management. Presented by Associated Industries of Missouri, the symposium is scheduled for **8-9 May 2003** in **Kansas City, Missouri**. Symposium topics include (1) new and innovative ideas/success stories, (2) small business/one person environmental health and safety, (3) air compliance/enforcement, and (4) water compliance/enforcement. For further information, please visit <http://www.aimo.com/events.htm>.

**U.S. Department of Interior Environmental Conference.** The annual DOI Conference on the Environment will be held **13-15 May 2003** in **Phoenix, Arizona**. Hosted by USFWS, the conference is themed "Partnering for Environmental Stewardship: Resource Conservation for the Future." For further information, please visit <http://www.doi.gov/conference/environment>.

**11th Annual Global Demilitarization Symposium and Exhibition.** The Joint Ordnance Commanders Group and NDIA will conduct this symposium **19-22 May 2003** in **Sparks, Nevada**. This event continues to support the DoD in efforts directed at reducing the stockpile of excess and obsolete strategic, tactical, and conventional munitions. The agenda will focus on the global challenges and successes experienced in the disposition of energetic materials. For further information, please contact Tim Becker or Dawn Harper, NDIA, at (703) 247-2573, or email [tbecker@ndia.org](mailto:tbecker@ndia.org) or [dharp@ndia.org](mailto:dharp@ndia.org).

**Real World Clean Air Symposium.** This tri-service and federal agency forum is scheduled for **20-22 May 2003** in **Seattle, Washington**. Topics to be covered include installation sustainability, EMSs, NAAQSs, installation air program management, pollution prevention, conformity/NEPA, legal issues, and homeland security. For further information, please visit <http://www.usasymposium.com> or call (937) 254-7950.

**2003 Missouri Environmental Conference at the Lake.** This conference is presented annually by the Missouri Chamber of Commerce & Industry, MDNR, The Missouri Bar, and the Regulatory Environmental Group for Missouri. This is Missouri's premier environmental gathering, featuring exhibits on the latest environmental products and services; the latest information on compliance with air, water, solid waste, and hazardous waste laws; litigation and ethics updates; enforcement alerts; an open forum with state and federal regulators; and breaking news on hot topics. The meeting also provides the opportunity for interaction with state and federal government representatives, industry experts, and environmental attorneys. This conference is scheduled for **31 July – 1 August 2003** in **Osage Beach, Missouri**. For more information, please contact Cynthia Bushmann at [cbushmann@mochamber.org](mailto:cbushmann@mochamber.org).

**18th Annual Hazardous Materials Management Conference on Household and Small Business Waste.** This conference is scheduled for **6-10 October 2003** in **Kansas City, Missouri**. For further information, please visit <http://www.nahmma.org>, or contact John Shidler at (913) 299-0486 and [jshi06448@aol.com](mailto:jshi06448@aol.com).

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## FEDERAL ACTIONS

### EPA FINAL RULE

**National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills (67 FR 2227; 16 January 2003).** This action promulgates NESHAPs for municipal solid waste landfills. The final rule is applicable to both major and area sources and contains the same requirements as the Emission Guidelines and New Source Performance Standards. The final rule adds startup, shutdown, and malfunction requirements, adds operating condition deviations for out-of-bounds monitoring parameters, requires timely control of bioreactor landfills, and changes the reporting frequency for one type of report. The HAPs emitted by MSWLFs include, but are not limited to, vinyl chloride, ethyl benzene, toluene, and benzene. The effective date of this rule was 16 January 2003. For further information, please contact JoLynn Collins, EPA, at (919) 541-5671 or [collins.jolynn@epa.gov](mailto:collins.jolynn@epa.gov).

### EPA PROPOSED RULE

**National Emission Standards for Hazardous Air Pollutants for Industrial/Commercial/Institutional Boilers and Process Heaters (67 FR 1659; 13 January 2003).** The EPA is proposing NESHAPs for industrial/commercial/institutional boilers and process heaters. The EPA has identified industrial/commercial/institutional boilers and process heaters as major sources of HAP emissions. The proposed rule would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emissions standards reflecting the application of the MACT. The proposed rule would reduce HAP emissions by 58,000 tons per year. Hydrogen chloride -- a substance that is not considered to be a carcinogen -- accounts for 42,000 tons per year (72 percent) of total HAP emissions reductions. The HAPs emitted by facilities in the boiler and process heater source category include arsenic, cadmium, chromium, hydrogen chloride, hydrogen fluoride, lead, manganese, mercury, and nickel. A public hearing will be held 12 February 2003 if anyone requested a public hearing by 3 February 2003. Comments are due by 14 March 2003. For further information, please contact Jim Eddinger, EPA, at (919) 541-5426 or [edding@epa.gov](mailto:edding@epa.gov).

## **OTHER EPA ACTIVITY**

**Status of EPA's Interim Assessment Guidance for Perchlorate.** On 22 January 2003, the EPA issued a memorandum to provide information concerning the status of the interim assessment guidance for perchlorate originally issued on 18 June 1999. Because there have been no official changes to the interim guidance in nearly 4 years, the EPA felt it was necessary to reaffirm the 1999 guidance until final perchlorate standards and regulations are promulgated. Generally, the EPA states that it is still evaluating health risk data to assess the exposure to perchlorate in drinking water, and suggests that by Spring 2004 it will have enough data to make a meaningful determination. In the meantime, the EPA states that the cleanup levels of 4 to 18 ppb, as published in the 1999 guidance, are still considered to be protective. In addition, it specifies that before a region can select a cleanup level either below or above the 4 to 188 ppb range, it must consult with the EPA's Office of Solid Waste and Emergency Response, Office of Research and Development, and Office of Water.

**Clean Water Act Section 303(d): Notice Final Agency Action Withdrawing of 1 Total Maximum Daily Load (67 FR 1850; 14 January 2003).** The EPA is announcing in this final action that it is withdrawing the TMDL for atrazine in the water column that EPA established pursuant to the Clean Water Act section 303(d), for Louisiana subsegment 080903, Big Creek from the confluence with the Boeuf River to the headwaters (including Big Colewa Bayou). The EPA is withdrawing this TMDL because the draft criteria value for atrazine used in screening the waterbody to determine whether it meets Louisiana water quality standards and for calculation of allowable load allocations was draft only and had not been through the complete public notice process and had not been finalized. In place of the draft atrazine criteria number of 12 ug/L, the EPA is establishing a screening value of 36 ug/L as calculated by one possible procedure found in Louisiana water quality standards (LAC 33:IX,1113.C.6). Based on this new screening value of 36 ug/L, Big Creek is not, and was not at the time EPA established this TMDL, impaired by atrazine and should not be listed on Louisiana's current CWA section 303(d) list for atrazine. Thus, the EPA is withdrawing this TMDL. For further information, please contact Ellen Caldwell, EPA, at (214) 665-7513.

**Water Quality Trading Policy; Issuance of Final Policy (67 FR 1608; 13 January 2003).** The EPA is announcing the availability of its final Water Quality Trading Policy. The final policy describes ways that water quality trading programs may be aligned with the Clean Water Act and implementing regulations, and describes elements of environmentally sound trading programs. Water quality trading is a voluntary, incentive-based approach that can offer greater efficiency in restoring or protecting water bodies. Trading allows a source to meet its regulatory obligations by using pollutant reductions created by another party with lower pollution control costs. The EPA's final Water Quality Trading Policy offers guidance to states and tribes on developing and implementing water quality trading programs. The policy is available online at <http://www.epa.gov/owow/watershed/trading.htm>.

**Advance Notice of Proposed Rulemaking on the Clean Water Act Regulatory Definition of "Waters of the United States" 67 FR 1991; 15 January 2003).** The U.S. Army Corps of Engineers and the EPA are issuing an advance notice of proposed rulemaking in order to obtain early comment on issues associated with the scope of waters that are subject to the Clean Water Act in light of the U.S. Supreme Court decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) (SWANCC). The agencies are requesting public input on issues associated with the definition of "waters of the United States" and also soliciting information or data from the general public, the scientific community, and Federal and State resource agencies on the implications of the SWANCC decision for jurisdictional decisions under the CWA. The goal of the agencies is to develop proposed regulations that will further the public interest by clarifying what waters are subject to CWA jurisdiction and affording full protection to these waters through an appropriate focus of Federal and State resources consistent with the CWA. The comment period ends 3 March 2003. For further information, please contact Donna Downing, EPA, at (202) 566-1366 or [CWAwaters@epa.gov](mailto:CWAwaters@epa.gov); or Ted Rugiel, U.S. Army Corps of Engineers, at (202) 761-4595 or [Thaddeus.J.Rugiel@HQ02.USACE.ARMY.MIL](mailto:Thaddeus.J.Rugiel@HQ02.USACE.ARMY.MIL).

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## REGION 6 STATE ACTIVITY

### Regulatory & Legislative Web Sites

Arkansas Department of Environmental Quality (ADEQ)	<a href="http://www.adeq.state.ar.us">http://www.adeq.state.ar.us</a>
Arkansas General Assembly	<a href="http://www.arkleg.state.ar.us/">http://www.arkleg.state.ar.us/</a>
Louisiana Department of Environmental Quality (LDEQ)	<a href="http://www.deq.state.la.us">http://www.deq.state.la.us</a>
Louisiana Legislature	<a href="http://www.legis.state.la.us/">http://www.legis.state.la.us/</a>
New Mexico Environment Department (NMED)	<a href="http://www.nmenv.state.nm.us/">http://www.nmenv.state.nm.us/</a>
New Mexico Legislature	<a href="http://legis.state.nm.us/">http://legis.state.nm.us/</a>
Oklahoma Department of Environmental Quality (ODEQ)	<a href="http://www.deq.state.ok.us">http://www.deq.state.ok.us</a>
Oklahoma Legislature	<a href="http://www.lsb.state.ok.us/">http://www.lsb.state.ok.us/</a>
Texas Commission on Environmental Quality (TCEQ)	<a href="http://www.tnrcc.state.tx.us">http://www.tnrcc.state.tx.us</a>
Texas Legislature	<a href="http://www.capitol.state.tx.us/">http://www.capitol.state.tx.us/</a>

## ARKANSAS

## Legislative/Regulatory Activity

### STATE OF ARKANSAS LEGISLATIVE ACTIVITY

The Legislature convened 13 January 2003.

### STATE OF ARKANSAS REGULATORY ACTIVITY

There is no State of Arkansas regulatory activity to report.

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## LOUISIANA

## Legislative/Regulatory Activity

### STATE OF LOUISIANA LEGISLATIVE ACTIVITY

The Legislature will convene 31 March 2003. Governor Foster has not announced his legislative priorities for the 2003 session beyond balancing the budget. Both legislative chambers are controlled by a Republican majority.

(NEW) **House Bill 46 – Transportation Waste.** This bill exempts motor carriers of waste from proving public convenience and necessity but still requires the carrier to obtain permission from the Public Service Commission to operate as a common or contract carrier of waste. This is a prefiled bill. Prospects for this bill's passage are uncertain.

(NEW) **House Bill 55 – Water Use.** This bill creates the reclaimed water program and prohibits the use of potable water for nonpotable uses where there exists an available reclaimed water source. The bill mandates reclaimed water producers and potential customers to cooperate in joint studies that develop reclaimed water sources. The bill requires reclaimed water producers to identify potential customers and request in writing that the customer enter into an agreement for the producer to provide reclaimed water. The bill requires current users of potable water for nonpotable uses identify reclaimed water producers and request in writing for the producer to enter into an agreement to supply reclaimed water. The bill authorizes state and political subdivisions to award contracts for developing and implementing reclaimed water plans and facilities without necessity of competitive bidding or competitive negotiation. The bill also creates the Louisiana Reclaimed Water Commission. This is a prefiled bill. Prospects for this bill's passage are uncertain.

## STATE OF LOUISIANA PROPOSED RULE

### **(UPDATE) Amendments to the Stage II Vapor Recovery System Requirements (LAC 33:III.2132).**

LDEQ is proposing revisions to the Stage II Vapor Recovery regulations. This proposed rule allows the continued use of the current Stage II Vapor Recovery Systems certified under California Air Resources Board certification procedures effective on or before 31 March 2001. Stage II Vapor Recovery System requirements are applicable to motor vehicle fuel dispensing facilities in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge. CARB recently approved changes to its standards, which affect the installation and operation of CARB-certified systems in Louisiana. This rule is also being proposed as a revision to the Louisiana SIP for air quality. Staff report that this rule may be withdrawn. *For further information, please contact Patsy Deaville, LDEQ, at (225) 765-0379.*

## OTHER REGULATORY ACTIVITY

**(UPDATE) Revision to Baton Rouge SIP.** LDEQ adopted revisions to its SIP for the Baton Rouge area. The revisions include, but are not limited to, the following: (1) attainment date extension request based on transport with analysis of ozone/ozone precursor transport; (2) urban airshed modeling with control measures demonstrating ozone attainment by 2005; (3) enforceable commitments; (4) contingency measures; (5) motor vehicle emissions budget for transportation conformity; (6) rescission of section 182(b)(1) NOx exemption for transportation conformity; and (7) revisions to the vehicle inspection/maintenance and new source review programs. The SIP revisions became effective 27 September 2002. *For further information, please contact James McGee, LDEQ, at (225) 765-0296.*

**(UPDATE) Hydrostatic Test Wastewater General Permit.** LDEQ has issued a permit to reissue LPDES Hydrostatic Test Wastewater General Permit (LAG670000). Coverage under this general permit shall be limited to owners of a site or operators of a source or an activity that result in discharges of hydrostatic test wastewater. Activities covered under this permit occur at sites or facilities which engage in the hydrostatic testing of new pipelines, flowlines, gathering lines, vessels or storage tanks, or those which have been used for the transport, transfer, or storage of natural gas, crude, oil, liquid or gaseous petroleum hydrocarbons, or other substances which would adequately be regulated by the effluent limitations in this general permit. In order to be covered as a permittee under this general permit, a Notice of Intent form must be submitted to the Department by either the owner of a site or the operator who will be conducting the hydrostatic test. The permit was issued 22 October 2002, with an effective date of 1 February 2003. *For further information, please contact Linda Gautheir, LDEQ, at (225) 765-0508.*

**NOTE:** Please see the following EPA action related to Louisiana under **OTHER EPA ACTIVITY: Clean Water Act Section 303(d): Notice Final Agency Action Withdrawing of 1 Total Maximum Daily Load (67 FR 1850; 14 January 2003).**

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## **NEW MEXICO**

## **Legislative/Regulatory Activity**

## STATE OF NEW MEXICO LEGISLATIVE ACTIVITY

The Legislature convened 21 January 2003.

**(NEW) SB 202 – Hazardous Waste Permit Management Fee.** This bill amends the Hazardous Waste Act to allow for assessment of permit-related fees for things other than permit applications.

## STATE OF NEW MEXICO REGULATORY ACTIVITY

There is no State of New Mexico regulatory activity to report.

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## STATE OF OKLAHOMA LEGISLATIVE ACTIVITY

The Legislature convened 3 February 2003. Legislative sources indicate that the Legislature's immediate priorities are dealing with the state's budget shortfall and creating a state lottery. Both legislative chambers are controlled by a Democratic majority.

(NEW) **House Bill 1019 – Water Quality.** This bill clarifies that waste treatment systems, including treatment ponds or lagoons designed to meet federal and state requirements other than cooling ponds as defined in the Clean Water Act or rules promulgated thereto and prior converted cropland are not waters of the state. This is a prefiled bill.

(NEW) **House Bill 1038 – Water.** This bill amends Oklahoma groundwater code regulations regarding maximum yields of groundwater from basins or subbasins. This is a prefiled bill.

(NEW) **House Bill 1083 – Water Use.** This bill prohibits issuance of certain temporary water permits until certain evidence is shown that the allocations will not interfere with certain uses and will not deplete certain basins. This is a prefiled bill.

## STATE OF OKLAHOMA PROPOSED RULE

(UPDATE) **Revisions to Emissions Monitoring Requirements (OAC 252:100-8, 100-43, 100-45).**

ODEQ is proposing revisions to the regulations for emissions monitoring. The revisions would (1) revoke subchapter 45, monitoring of emissions and merge the requirements of subchapter 45 into subchapter 8, permits for part 70 sources and subchapter 43, sampling and testing methods; (2) adopt the federal definition of "major source" for part 70 sources; (3) add definitions to subchapter 43 for the terms "method," "monitoring," and "test"; and (4) add 43.1.2, which would clarify that the requirements of subchapter 43 may not be used to avoid compliance with applicable, but more stringent, Federal or State rules. The proposal was adopted by the Environmental Quality Board on 10 September 2002, and approved by the Governor on 29 October 2002. The rule is now pending legislative approval. For further information, please contact Scott Thomas, ODEQ, at (405) 702-4100.

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## STATE OF TEXAS LEGISLATIVE ACTIVITY

The Legislature convened 14 January 2003.

(NEW) **House Bill 378 – Nuisance.** This bill allows a resident of a municipality to bring a suit to require the municipality to take remedial action against a public nuisance that is occurring in the municipality. The bill states that the suit may be brought only in a county in which the nuisance occurs. Prospects for this bill's passage are unclear.

(NEW) **Senate Bill 171 – Air Quality.** This bill increases from 4,000 to 8,000 tons per year the permissible amount of emissions of an air contaminant regulated under the federal Clean Air Act Amendments. Sources indicate that the measure is expected to draw opposition from environmental groups. Prospects for this bill's passage are unclear.

## STATE OF TEXAS FINAL RULE

(UPDATE) **Revisions to Air Regulations and the SIP (30 TAC 101, 115, 117).** TCEQ has adopted revisions to the air regulations and the SIP. The adopted SIP includes revisions to the industrial, commercial, and institutional source control requirements that are already included within the federally approved SIP for the Houston/Galveston ozone nonattainment area and also includes the development of the energy efficiency program, the protocol for the Emissions Reduction Program through the EPA's Economic Incentive Program, and a revision to the speed limit reduction strategy. The proposed new divisions within Subchapters B and H of Chapter 115 that were



originally proposed have been withdrawn. A computational error was discovered; in order to correct this inaccuracy, the Commission is establishing an emission rate of 7.4 pounds per hour for all highly reactive VOC from each flare at an account. The amendments to Chapter 117 include revisions to the industrial, commercial, and institutional source control requirements that are already included within the federally approved SIP for the Houston/Galveston ozone nonattainment area. These proposed amendments will change the maximum amount of NOx emission reductions required from certain point sources. The amendments also reorganize and modify existing portions of the Chapter 117 rules which apply to sources of NOx in the Beaumont/Port Arthur and Dallas Fort Worth ozone nonattainment areas, as well as to electric generating facilities located in Palo Pinto County and 31 attainment counties of east and central Texas, in order to improve implementation of the existing Chapter 117. The effective date of this rule is 17 January 2003. The plan must still be approved by the EPA. *For further information, please contact Kelly Keel, TCEQ, at (512) 239-3607.*

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## REGION 7 STATE ACTIVITY

### Regulatory & Legislative Web Sites

Iowa Department of Natural Resources (IDNR)	<a href="http://www.state.ia.us/dnr/">http://www.state.ia.us/dnr/</a>
Iowa General Assembly	<a href="http://www.legis.state.ia.us/">http://www.legis.state.ia.us/</a>
Kansas Department of Health and Environment (KDHE)	<a href="http://www.kdhe.state.ks.us">http://www.kdhe.state.ks.us</a>
Kansas Legislature	<a href="http://www.kslegislature.org/cgi-bin/index.cgi">http://www.kslegislature.org/cgi-bin/index.cgi</a>
Missouri Department of Natural Resources (MDNR)	<a href="http://www.dnr.state.mo.us/homednr.htm">http://www.dnr.state.mo.us/homednr.htm</a>
Missouri General Assembly	<a href="http://www.moga.state.mo.us/">http://www.moga.state.mo.us/</a>
Nebraska Department of Environmental Quality (NDEQ)	<a href="http://www.deq.state.ne.us">http://www.deq.state.ne.us</a>
Nebraska Legislature	<a href="http://www.unicam.state.ne.us/">http://www.unicam.state.ne.us/</a>

## IOWA

## Legislative/Regulatory Activity

### STATE OF IOWA LEGISLATIVE ACTIVITY

The Legislature convened 13 January 2003.

### STATE OF IOWA FINAL RULES

(UPDATE) **Amendments to Flammable and Combustible Liquids Regulations (567 IAC 5, 51).** The Iowa Department of Public Safety has adopted amendments to an existing regulation, Chapter 5, and the adoption of a new regulation, Chapter 51, which would be titled "Flammable and Combustible Liquids." The changes concern new standards for the transportation, storage, handling and use of flammable liquids, liquefied petroleum gases, and liquefied natural gases. The Department incorporates by reference several national standards published by the National Fire Protection Association in order to include revisions made to the NFPA standards since the Department last adopted the standards. The effective date of this rule was 1 January 2003. *For further information, please contact Michael Coveyou at (515) 281-5524.*

(UPDATE) **Amendments for Sanitary Disposal Projects with Processing Facilities Rules (Chapter 104) and to Recycling Operations Rules (Chapter 106).** IDNR has adopted revisions to Chapter 104 and 106 provisions because of the extensive reorganization and clarification to make the new rules useful to transfer station and citizen convenience center operators and to regulatory officials. The rule renumbers portions of Chapter 104. With regard to Chapter 106, the rule re-titles the provision (formerly "Recycling Operations") "Citizen Convenience Centers and Transfer Stations." The new rules cover (1) compliance, the addition of new definitions, citizen convenience center and transfer station permits and permit application requirements; (2) citizen convenience center and transfer station operating, reporting, and closing requirements; and (3) temporary solid waste storing at transfer stations, and solid waste transport vehicles. The effective date of this rule was 17 July 2002. *For further information, please contact Jeff Myrom, IDNR, at (515) 281-3302.*

(UPDATE) **Registration of Waste Tire Haulers (567 IAC 123).** The Iowa Environmental Protection Division has adopted an emergency rule and is proposing a permanent regulation in order to satisfy a new statutory requirement that the registration of waste tire handlers will now be overseen by the Division, as opposed to the Office of the Secretary of State. The only change made to the rules was replacing the five references to "Secretary of State" with "department" as the appropriate state agency for administering the rules. The effective date of the emergency rule was 14 August 2002. IDNR has proposed the adoption of the permanent regulation. The Department proposed to rescind the chapter adopted through the emergency rule and will propose the adoption of a new chapter. A public hearing has been held, and the comment period is closed. *For further information, please contact Mel Pins, IDNR, at (515) 281-8646.*

## **STATE OF IOWA PROPOSED RULES**

(NEW) **Amendments to Water Quality Standards, Effluent and Pretreatment Standards (567 IAC 61, 62, 72).** IDNR is proposing amendments to its water quality standards and effluent and pretreatment standards regulations. The proposal would change the current Class A use from a single use designation of primary contact recreation to three designations as follows: (1) Class A1 – Primary Contact Recreational Use; (2) Class A2 – Secondary Contact Recreational Use; and 3) Class A3 – Children's Recreational Use. The proposal would also establish numerical criteria for bacteria using *E. coli* as the indicator bacteria (replacing fecal coliform) and change the time period when the standards apply. The proposal would provide for the adoption by reference of Surface Water Classification in new subrule 61.3(5). It would also add the Class B (CW Cold Water) use designation to approximately a 1-mile segment of the upper portion of South Cedar Creek in Clayton County. Finally, the proposal would correct and clarify the locations or names of several water bodies or both the locations and names in subrules 61.2(2) and 72.50(2). The Department will hold hearings in various locations around Iowa on 3, 4, 6, 7 and 11 February 2003; comments will be accepted through 25 February 2003. *For further information, please contact Ralph Turtle, IDNR, at (515) 281-7025.*

(UPDATE) **Amendments to Air Definitions (567 IAC 2.1).** IDNR has adopted amendments to two of its air definitions. The final regulation defines "emissions data" and "effluent data" for purposes of confidentiality treatment by the Department. The final rule is expected to be published in the Iowa Register by the end of February 2003. *For further information, please contact Anne Preziosi, IDNR, at (515) 281-8852.*

## **OTHER REGULATORY ACTIVITY**

(NEW) **Title V Fee Cap (567 IAC 22).** IDNR has drafted a regulation to increase the maximum dollar per ton fee (a.k.a. "fee cap"). The Environmental Protection Commission is charged with setting the annual fee for Title V permits. The maximum fee that the Commission is currently allowed (by rule) to charge annually on the first 4,000 tons of actual emissions of each pollutant, from sources subject to Title V permitting, is \$29 per ton. Budget projections and estimates of actual emissions indicate that this annual fee will have to be increased to maintain the current level of service with increases in staff salaries due to negotiated contract increases. The current annual fee is \$29 per ton, which is at the maximum cap level. Therefore, the Commission will be asked to raise the fee cap to allow for increases in annual fee levels. *For further information, please contact Wayne Gieselman, IDNR, at (515) 281-8916.*

(NEW) **Amendments to Special Wastes Rules (567 IAC 109).** IDNR has issued a draft regulation to amend its Special Wastes regulations. The revisions would include stabilized grit, bar screenings and grease skimmings to the category of general special wastes. This revision will eliminate the need for a Special Waste Authorization for the delivery of this common waste to a permitted sanitary landfill. Another revision will add the conditions and requirements that shall be met by the sanitary landfill and/or the generator for the disposal of general special wastes (which will be petroleum-contaminated soil; asbestos-containing wastes; and stabilized grit, bar screenings and grease skimmings). The last revision will correct an omission that was made in the paragraph that addresses infectious waste. A proposal should be issued by the end of February 2003. The Department plans to hold a hearing, as well as accept comments. *For further information, please contact Jim Thayer, IDNR, at (515) 281-3426.*

(NEW) **Revisions to Municipal Solid Waste Landfill Regulations (567 IAC 113).** IDNR is considering making revisions to its municipal solid waste regulations, newly located in Chapter 113. Staff expect that the Department will go through each sanitary landfill chapter now that the categories of landfills have been placed in separate rule chapters. The Department will create an Advisory Committee to begin the revision process for municipal solid waste landfills by the end of May 2003. Staff report that the review of the other landfill regulations will

follow, and that due to the size of each chapter, the process of reviewing all of the landfill chapters may take several years. *For further information, please contact Jeff Myrom, IDNR, at (515) 281-3302.*

(UPDATE) **Ambient Air Quality Standards (567 IAC 28).** IDNR is proposing the adoption of an Ambient Air Quality Standards Sampling Manual. This manual will contain data handling procedures, quality assurance requirements, performance specifications, acceptable monitoring equipment, and acceptable methods for determining compliance with hydrogen sulfide and ammonia standards after 1 December 2004. Public hearings have been held, and the comment period is closed. Staff report that the Department is currently reviewing the comments received, and expect to adopt the final rule by spring 2003. For further information, please contact Sean Fitzsimmons, IDNR, at (515) 281-8923.

(UPDATE) **Reorganization and Revision of Land Application Waste Rules (567 IAC 120, 121).** IDNR is discussing land application waste rules. The Department is considering combining Chapters 120 and 121 into one chapter and revising 121 to require permits for land farming of petroleum-contaminated soil. Staff report that a draft still has not been written, but that the Department now anticipates forming an Advisory Committee to begin work on a draft by the end of March 2003. *For further information, please contact Jeff Myrom, IDNR, at (515) 281-3302.*

(UPDATE) **PSD Permit Streamlining.** IDNR is discussing ways to streamline the PSD permit process. PSD requires that any new or expanding facility located in areas not meeting the existing air quality standards are limited in their emissions, and such facilities are often required to install best available technology. Staff report that one amendment the Department hopes to make is to clarify certain definitions that it feels are unclear. One definition the Department is looking to clarify is of a major source, and to establish a standard for the terms contiguous and "adjacent" in reference to a major source. Staff report that the EPA's New Source Review reform regulations will significantly affect the Department's attempt to adopt a streamlined PSD permit process. The Department is still going through the federal rule and are in the process of determining how the new federal regulation would be implemented, and the impact the federal regulation would have on state programs. Over the next few weeks, the states and the EPA will discuss these issues and try to reach consensus on the issues. The Department is for the most part waiting to see the results of this discussion, but is working on a technical guidance to assist permit applicants and to address differences of interpretation between the EPA and the state of various definitions, e.g., the interpretation of adjacent vs. contiguous. Staff could not estimate when a proposed guidance would be issued, or when the dispute between the EPA and states with regard to the NSR reform regulations may be resolved. *For further information, please contact Dave Phelps, IDNR, at (515) 281-8189.*

(UPDATE) **Small Source and Indoor-Vented Source Regulation.** IDNR is considering regulations regarding the permitting of small source and indoor-vented sources. The Department is considering whether to allow an exemption from permitting from these sources, even though they are considered to be point sources. Staff report that the EPA has been dissatisfied with the Department's handling of the exemption issue, and that the Department is trying to resolve conflicts with industry and other stakeholders. The Department is just beginning to put together a work group to revise the regulations in order to gain EPA approval, although staff report they still expect to receive resistance to the proposal from industry groups. The work group should be established by spring 2003. *For further information, please contact Dave Phelps, IDNR, at (515) 281-8189.*

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## KANSAS

## Legislative/Regulatory Activity

### STATE OF KANSAS LEGISLATIVE ACTIVITY

The Legislature convened 13 January 2003.

(NEW) **House Bill 2003 – Water, Municipal Authorities.** This bill permits procedures for acquisitions of rural water district water supply and distribution systems, including (1) the transfer to the municipality of control and ownership of the district's water supply and distribution system, including all property, equipment, records, reports and funds; (2) continued service, at an agreed upon rate, by the municipality to customers served by such system; (3) assumption of all or part of the revenue bond liability or other outstanding obligations of the district; and (4) establishment of a policy for connecting new customers to the water supply and distribution system. This bill was prefiled. A hearing was held 23 January 2003. Legislative sources indicate that this measure is expected to move forward. Prospects for this bill's passage are fair.

## STATE OF KANSAS FINAL RULES

(UPDATE) **Water Resources Regulations (KAR 5-22-2, 4-5, 12).** The Kansas Department of Agriculture has adopted new regulations and amendments to its existing water resources regulations. The changes address well spacing requirements, metering, water flowmeter requirements, and application processing requirements. The application processing provision requires that all nondomestic, nontemporary applications shall be reviewed by the Groundwater Management District staff that shall make a recommendation to the chief engineer for approval, denial or modification of the application. The Department has revoked KAR 5-22-5, Reporting water use. The effective date of this rule was 10 January 2003. *For further information, please contact Annita Meyer at (785) 296-1176.*

(UPDATE) **Amendments to Water Measuring Devices and Well Construction Requirements Due to High Chloride (KAR 5-23-4-6, 16, 17).** The Kansas Department of Agriculture has adopted amendments to its regulations regarding water measuring devices, well construction requirements due to high chloride, and water appropriation limits. The provisions require that each diversion works for a nontemporary, nondomestic well shall be equipped with a water flowmeter that meets or exceeds the standards of the chief engineer. With regard to well construction requirements due to high chloride, the revision would require that applications to construct wells located in designated areas in Meade and Seward counties must include a driller's log, electric log, and a laboratory sample analysis. The provision would also require that wells be drilled only into that portion of the saturated thickness where the chloride concentrations are less than 250 mg/L. The effective date of this rule was 10 January 2003. *For further information, please contact Annita Meyer at (785) 296-1176.*

(UPDATE) **Amendments to Water Use Regulations.** The Kansas Department of Agriculture has adopted amendments to several of its water use regulations, located in the Administrative Regulations at 5-24-5, 7-10. The regulations concern allowable appropriation-reasonable use; well construction criteria; resource development plans; water flowmeters, and exemptions for up to 15 acre-feet of groundwater. The effective date of this rule was 10 January 2003. *For further information, please contact Annita Meyer at (785) 296-1176.*

## OTHER REGULATORY ACTIVITY

(NEW) **2003 Intended Water Use Plan.** KDHE is proposing the adoption of the federal FY 2003 priority system and list and the proposed federal FY 2003 intended water use plan. The Department has made minor modifications and clarifications to the priority system. A public hearing has been held, and the comment period is closed. For further information, please contact Rod Geisler, KDHE, at (785) 296-5527.

(UPDATE) **TMDLs: Verdigris Basin.** The EPA issued its approval of the Verdigris River Basin TMDLs on 30 September 2002. The Section 303(d) list submitted to and approved by EPA in 1998 identifies 48 river segments and 5 lakes in the Verdigris River Basin as water quality impaired. Among the streams, the greatest number of impairments were caused by excessive levels of fecal coliform bacteria and dissolved oxygen depletion. Among the lakes, eutrophic conditions indicative of excessive algae production and dissolved oxygen depletion were the predominant cause of impairment. *For further information, please contact Tom Stiles, KDHE, at (785) 296-6170.*

(UPDATE) **TMDLs: Neosho Basin.** The EPA approved TMDLs for the Neosho Basin on 30 September 2002. The Section 303(d) list submitted to and approved by EPA in 1998 identifies 69 river segments and 13 lakes in the Neosho River Basin as water quality impaired. Among the streams, the greatest number of impairments were caused by excessive levels of fecal coliform bacteria. Among the lakes, eutrophic conditions indicative of excessive algae production was the predominant cause of impairment. Other pollutants limiting the use of the Neosho River Basin streams include selenium, dissolved oxygen depletion, chlordane, sulfate, ammonia, pH, zinc, lead, copper, cadmium, and metals. Additional lake impairments were caused by dissolved oxygen depletion, pH, siltation, and fecal coliform bacteria. *For further information, please contact Tom Stiles, KDHE, at (785) 296-6170.*

(UPDATE) **TMDL: Walnut Basin.** The EPA issued its approval of the Walnut River Basin TMDLs on 30 September 2002. The Section 303(d) list submitted to and approved by EPA in 1998 identifies 43 river segments and 5 lakes in the Walnut River Basin as water quality impaired. Among the streams, the greatest number of impairments were caused by excessive levels of fecal coliform bacteria and sulfate. Among the lakes, eutrophic conditions indicative of excessive algae production were the predominant cause of impairment. Other pollutants limiting the use of the Walnut River Basin streams include ammonia and nutrient oxygen demand. Additional lake impairments were

caused by dissolved oxygen depletion, siltation, and fecal coliform bacteria. *For further information, please contact Tom Stiles, KDHE, at (785) 296-6170.*

(UPDATE) **2002 303(d) List and Methodology.** KDHE is proposing its 2002 303(d) List and Methodology. The 2002 303(d) List consists of the water quality impaired streams, lakes and wetlands that require the development of TMDLs. The Department submitted the 303(d) List to the EPA on 1 October 2002. The EPA has not yet issued its approval, and staff could not estimate when approval would be issued. *For further information, please contact Tom Stiles, KDHE, at (785) 296-6170.*

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## MISSOURI

## Legislative/Regulatory Activity

### STATE OF MISSOURI LEGISLATIVE ACTIVITY

The Legislature convened 8 January 2003. Governor Holden has pledged that his priority issues of 2003 will be budget constraints, security, and economic development. In addition to the budget, the Legislature will likely focus on education, transportation, public safety and public health.

(NEW) **House Bill 100 – Land Use, Growth Management.** This bill directs appeals from zoning boards of adjustment decisions to the governing body with jurisdiction over the property. Prospects for this bill's consideration are unfavorable.

(NEW) **House Bill 114 – Pesticides.** This bill establishes a pesticide project fund to distribute monies to applicants whose projects meet the eligibility requirements regarding pesticides and agricultural educational efforts. The bill allows the Department of Agriculture to deny, cancel, suspend or revoke the registration of a pesticide if the product is found to be harmful to humans or the environment. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **House Bill 215 – Air Quality, Water Quality, Land Use.** This bill creates the Environmental Regulation Consistency Act to authorize MDNR, including any board or commission assigned to MDNR, to have the authority to promulgate such rules to ensure that the state of Missouri is in compliance with the provisions of any applicable federal statutes and federal regulations.

(NEW) **House Bill 218 – Environmental Administrative Procedures.** This bill states that any person who holds a permit issued MDNR or any of its programs, divisions, or commissions, and fails to file a required report by the date specified by such permit will not be issued a notice of violation or be subject to any fine or penalty until (1) the Department has notified the holder of the permit by registered mail that the required report has not been received; and (2) the holder of the permit fails to file the required report within thirty days after receipt of such notification. Prospects for this bill's consideration are unfavorable.

(NEW) **Senate Bill 156 – Scrap Tires.** This bill extends the sunset on the fee for waste tires to 2011. Prospects for this bill's consideration are unfavorable.

(NEW) **Senate Bill 202 – Water Use.** This bill requires any corporation, municipality or public water supply district to allow access to its supply of water during an emergency to any fire protection district, city fire department or other entity providing fire protection services, regardless of any non-payment of fees. Prospects for this bill's immediate consideration are unfavorable.

(UPDATE) **Senate Bill 36 – Environmental Administrative Procedures, Water, Land Use.** This bill requires all regulations promulgated by MDNR, Hazardous Waste Management Commission, State Soil and Water Districts Commission, Petroleum Storage Tank Insurance Fund Board, Land Reclamation Commission, Safe Drinking Water Commission, Air Conservation Commission, and Clean Water Commission to be based on sound science. The bill requires MDNR to prepare a risk assessment and cost-benefit analysis for all rules promulgated by the referenced agencies. Two hearings have been held. Prospects for this bill's passage are unfavorable. Legislative sources indicate that no substantial action occurred during the first Committee meeting.



(UPDATE) **Senate Bill 54 – Inspection and Maintenance Programs.** This bill allows vehicle emissions test for residents in Franklin County to be conducted on a biennial basis. The bill increases the maximum testing fee to \$24 from \$10.50. A hearing was scheduled for 21 January 2003. Prospects for this bill's passage are favorable.

(UPDATE) **Senate Bill 121 – Land Use, Growth Management.** This bill modifies the current law concerning a county's adoption of planning and zoning prior to becoming a first class county so as to specifically include Cass County. The bill allows Cass County to continue to operate under its existing planning and zoning laws. A hearing has been held. Prospects for further consideration of this bill are favorable. The measure was considered by special consent during a recent Committee meeting, and Committee staff indicate that the measure will be considered in the near future.

## STATE OF MISSOURI FINAL RULE

(UPDATE) **Rescission of Emission Control Regulations for Dry Cleaners (10 CSR 10-2.280, 10-5.320).** MDNR rescinded the regulations governing the control of emissions from perchloroethylene dry cleaning installations. The rescission effects installations in Clay County, Jackson County, Platte County, Jefferson County, St. Charles County, Franklin County and St. Louis City and County. The former regulations were made obsolete by the adoption of the federal Maximum Achievable Control Technologies into 10 CSR 10.675. The effective date of the rescission was 16 January 2003. *For further information, please contact Roger Randolph, MDNR, at (573) 751-4817.*

## STATE OF MISSOURI PROPOSED RULE

(NEW) **Alternative Emission Limits (10 CSR 10-6.110).** MDNR is proposing alternative emissions limits for installations that emit VOCs in the ozone nonattainment areas of the state. The owner or operator of an installation may propose alternate ways of meeting VOC emission limits required in 10 CSR 10-2 through 10 CSR 10-5. Proposals may treat several source operations within 1 or more installations as being placed under a hypothetical dome with 1 emission point. Emission levels within the dome may be increased and decreased so long as the total emissions from the hypothetical emission point do not increase and other requirements of this rule are met. If an installation is controlling VOC emissions from a source operation for other reasons than to contribute to attainment of the ozone standard, for example, to prevent a nuisance or odor violation, it cannot increase those emissions through application of this rule. This proposal will not be enforceable until approved by the EPA. A public hearing is scheduled for 4 February 2003; comments are due by 11 February 2003. For further information, please contact Sarah Fast at MDNR.

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## NEBRASKA

## Legislative/Regulatory Activity

### STATE OF NEBRASKA LEGISLATIVE ACTIVITY

The Legislature convened 8 January 2003. 22 January 2003 was the last day for new bill introductions. Legislative sources indicate that the top issues for the 2003 session are expected to be the state's budget shortfall, death penalty reform, Medicaid reform, casino gambling, and changes to the state's business tax incentive program.

(NEW) **LB 26 – Environmental Justice.** This bill adds representatives from certain populations to the Environmental Quality Council. The bill adds that the effects on the health of children and minority and low-income populations be considered by the Council. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 30 – Groundwater.** This bill states that any person who violates a cease and desist order issued by a district will be guilty of a Class IV misdemeanor or subject to a civil penalty of not more than \$5000 for each day an intentional violation occurs. The bill states that any civil penalty assessed and unpaid will constitute a debt to the state which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The bill requires the court, within thirty days after receipt, to remit the civil penalty to the State Treasurer for credit to the permanent school fund. Prospects for this bill's consideration are unfavorable.

(NEW) **LB 35 – Water Use.** This bill changes provisions relating to denial of a water well permit in a groundwater management area. Prospects for this bill's consideration are favorable.

(NEW) **LB 69 – Environmental Administrative Procedures.** This bill allows the Military Department to contract with the Nebraska Wing of the Civil Air Patrol Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 88 – Air Quality.** This bill requires that any person who fails to obtain a permit to conduct open burning which results in a response by the local fire department make application for a late permit on forms prescribed by the State Fire Marshal. The bill requires the local fire department to charge a fee of \$500 for each such permit issued. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 93 – Groundwater, Pesticides.** This bill revises the Nebraska Ground Water Management and Protection Act to state that best management practices mean schedules of activities, maintenance procedures, and other management practices utilized to prevent or reduce present and future contamination of ground water which may include irrigation scheduling, proper rate and timing of fertilizer and pesticide application, and other fertilizer and pesticide management programs. Prospects for this bill's consideration are favorable.

(NEW) **LB 123 – Groundwater.** This bill states that in determining whether to grant or deny a Nebraska Department of Natural Resources permit, the Department's Director shall consider (1) any negative effect of the proposed withdrawal on surface water supplies needed to meet present or reasonable future demands within the state, to comply with any interstate compact or decree, or to fulfill the provisions of any other formal state contract or agreement; (2) any adverse environmental effect of the proposed withdrawal or transportation of ground water; and (3) the cumulative effect of the proposed withdrawal and transfer. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 141 – Water.** This bill states that the owner of a storage reservoir constructed before 31 December 2002, for which a storage appropriation is required, but for which such an appropriation has not been granted, may file an application for an appropriation with the Nebraska Department of Natural Resources on or before 31 December 2004, and may request a priority date for such storage appropriation corresponding to the date that construction of the storage reservoir was completed. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 143 – Solid Waste.** This bill states that if it is necessary in the course of an investigation or inspection or during remedial or corrective action and if the owner of the subject property or the owner's agent has specifically denied access to the Nebraska Department of Natural Resources for such purposes, the Department's Director may order the owner or owner's agent to grant access to such property for the performance of reasonable steps to determine the source and extent of contamination, for remediation, or for other corrective action, including drilling and removal of wastes. The bill states that access will be by the Department or by a person conducting the investigation, inspection, or remedial action at the direction of the Department. The bill also states that the property will be restored as nearly as possible to its original condition at the conclusion of the investigation, inspection, or remedial action. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 144 – Scrap Tires, Cleanup.** This bill eliminates provisions relating to tires under the Integrated Solid Waste Management Act and the Waste Reduction and Recycling Incentive Act. The bill eliminates obsolete language relating to the Scrap Tire Reduction and Recycling Incentive Fund. The bill states that until 30 June 2007, the Director of the Waste Reduction and Recycling Incentive Fund may disburse up to \$500,000 annually to the Roads Operations Cash Fund to be used to offset the cost of using crumb rubber in the construction of asphalt roads and to promote the use of crumb rubber in asphalt roads. The bill further states that promotional activities may include funding workshops or other educational activities, the purchase of equipment, and the award of grants to political subdivisions or other public or private entities. Prospects for this bill's consideration are favorable.

(NEW) **LB 157 – Pesticides.** This bill states that it is unlawful for any person to knowingly or intentionally use, cause to be used, handle, store, or dispose of a pesticide on property without the permission of the owner or lawful tenant, except that an employee or other authorized agent of a federal or state agency or political subdivision may apply pesticides for outdoor vector control on property without obtaining permission from the owner or lawful tenant. A hearing was scheduled for 21 January 2003. Prospects for this bill's passage are favorable.

(NEW) **LB 164 – Water Quality.** This bill states that nonpoint source control systems means projects which establish the use of methods, measures, or practices to control the pollution of surface waters and ground water that

occurs as pollutants are transported by water from diffuse or scattered sources. The bill states that such projects include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures applied before, during, and after pollution-producing activities. The bill states that sources of nonpoint source pollution may include, but are not limited to, agricultural, forestry, and urban lands, transportation corridors, stream channels, mining and construction activities, livestock operations, septic tank systems, underground storage tanks, landfills, and atmospheric deposition. Prospects for this bill's consideration are favorable.

(NEW) **LB 183 – Groundwater.** This bill creates a transfer fee of \$0.25 per gallon on ground water transferred in a radius of 55 miles or more from the water well from which it is pumped. The bill states that any person or other entity intending to withdraw ground water from any water well located in Nebraska and transport it in a radius of 55 miles or more will report to the Nebraska Department of Natural Resources for a permit to do so six months prior to any such withdrawal. The bill requires such report to contain the following information: (1) the location of well to be used for such withdrawal; (2) the purpose for the withdrawal; (3) the proposed amount of water to be withdrawn on a monthly basis; and (4) the name and address of the responsible party for the payment of the transfer fee. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 254 – Radioactive Waste.** This bill states that until 1 January 2005, a fee of \$2,000 will be assessed on each cask of high-level radioactive waste or transuranic waste shipped in or through the state, whether shipped by motor carrier or rail. The bill states that on and after 1 January 2005, the Department of Health and Human Services Regulation and Licensure will establish and assess fees on all high-level radioactive waste and transuranic waste shipped by any means in or through the state. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 301 – Electronic Waste.** This bill creates the Electronic Equipment Recycling Act requiring the Nebraska Environmental Trust Board to enter into an agreement with a contractor to develop and implement the program by creating short-term and long-term strategies for establishing a statewide system of determining the most efficient means of managing, collecting, storing, transporting, processing, recycling, reusing, or otherwise disposing of electronic equipment. The bill requires the program to include the following: (1) working with local governments and businesses to determine the most efficient means of collecting, transporting, and processing scrap electronic equipment; (2) developing public education programs on the benefits of electronic equipment recycling and how to accomplish it; (3) providing grants to electronic equipment recycling businesses; (4) awarding grants to local governments and solid waste facility operators to pay processing and recycling costs assessed by authorized electronic equipment recyclers; and (5) carrying out the purposes of the Electronic Equipment Recycling Program and promote the recycling of electronic equipment. Prospects for this bill's consideration are favorable.

(NEW) **LB 375 – Alternative Fuels.** This bill states that the administration and imposition of motor fuel taxes will apply to the administration and imposition of assessments made by the Department of Revenue relating to excess credits claimed by ethanol producers under the Ethanol Development Act. The bill states that these provisions include, but are not limited to, issuance of a deficiency following an examination of records, an assessment becoming final after thirty days absent a written protest, presumptions regarding the burden of proof, issuance of deficiency within three years of original filing, issuance of notice by registered or certified mail, issuance of penalties and waiver thereof, issuance of interest and waiver thereof, and issuance of corporate officer or employee or limited liability company manager or member assessments. The bill states that for purposes of determining interest and penalties, the due date will be considered to be the date on which the credits were used by the licensees to whom the credits were transferred.

(NEW) **LB 376 – Alternative Fuels.** This bill changes and eliminates provisions relating to funding for ethanol production tax credits. The bill changes fuel tax rate provisions, and changes an excise tax rate. The bill also eliminates a tax credit and task force that have expired. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 449 – Air Quality.** This bill states that beginning 1 January 2004, each application for an air quality construction permit required by rules and regulations will be accompanied by an application fee. The bill states that if fees are required under more than one subdivision of this subsection, the application will be accompanied by the one fee that is the highest of the applicable fees. The bill states that the application fee will be based on potential to emit, as defined in such rules and regulations, in accordance with the following schedule: (1) \$3000 for facilities that directly emit more of any air pollutant, except hazardous air pollutants; (2) \$3000 for facilities that directly emit or have the potential to emit ten tons per year or more of any single hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants; (3) \$1500 for facilities that directly emit or have the potential to emit 50 tons per year or more but less than 100 tons per year of any air pollutant, except hazardous air pollutants; (4) \$1500 for

facilities that directly emit or have the potential to emit (a) two and one-half tons per year or more but less than ten tons per year of any single hazardous air pollutant; or (b) ten tons per year or more but less than 25 tons per year of any combination of hazardous air pollutants; (5) \$250 for facilities that directly emit or have the potential to emit less than 50 tons per year of any air pollutant, except hazardous air pollutants; and (6) \$250 for facilities that directly emit or have the potential to emit (a) less than two and one-half tons per year of any single hazardous air pollutant and (b) less than ten tons per year of any combination of hazardous air pollutants. The bill states that all application fees collected will be remitted to the State Treasurer for credit to the Air Quality Permit Cash Fund, which fund is hereby created. The bill also defines air pollutant as particulate matter with a diameter of ten microns or less, sulfur dioxide or sulfur trioxide or any combination of the two, oxides of nitrogen, volatile organic compounds, and carbon monoxide. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 473 – Water Quality, Chlorinated Compounds.** This bill states that any political subdivision that provides the water supply for human consumption for any city or village having a population of one thousand or more inhabitants will add fluoride to such water supply in the amount and manner prescribed by the rules and regulations of the Department of Health and Human Services. Prospects for this bill's immediate consideration are unfavorable.

(NEW) **LB 481 – Transportation.** This bill states that the driver of any motor truck, truck-tractor, semitrailer, trailer, or towed vehicle who fails to obey any sign, message board, or in-cab signal from any state weighing station or portable scale or who knowingly passes or bypasses any state weighing station or portable scale, when the same station or scale is open and being operated by an officer of the Nebraska State Patrol is guilty of a Class III misdemeanor. Prospects for this bill's immediate consideration are unfavorable.

## **STATE OF NEBRASKA FINAL RULE**

(UPDATE) **Revision to the Air Permit Regulations (Title 129).** NDEQ finalized revisions to the air permit regulations. The changes include (1) changes to Chapter 1 including addition of new, and revisions to existing definitions; (2) changes to Chapter 5 adding clarifying terms and including allowing qualifying sources otherwise subject to the Class I or Class II operating permit program to be covered by permit-by-rule provisions; (3) changes to Chapter 6 requiring the reporting of annual emissions of any single regulated hazardous air pollutant above reporting levels identified in a new Appendix III List of Insignificant Activities; (4) changes to Chapter 9 providing that a source may be covered for some activities under a general permit and for the facilities or activities by permit-by-rule and would be required to identify permit-by-rule coverage in applications for permits; (5) changes to Chapter 17 allowing a qualifying source subject to the construction permit program to be covered instead by a permit-by-rule; (6) changes to Chapter 27 updating the "MACT hammer" rules as modified on April 5, 2002 in 67 Federal Register 16582; and (7) changes to Chapter 30 allowing additional groups to obtain open burning permits for plant, wildlife and parks management. The revisions add Chapter 42 that adopts new regulatory provisions relating to permits-by-rule as an alternative to individual or general permits. The revisions include (1) provisions governing applicability, procedures for sources to be covered under a permit-by-rule; (2) procedures governing departmental review and approval or disapproval of notices of intent to be covered; (3) provisions relating to location of temporary sources covered by a permit-by-rule; and (4) general provisions relating to duty to comply, compliance with other applicable requirements, duty to provide information on request, and annual certification of compliance. In addition, Chapter 42 includes a permit by-rule for hot mix asphalt plants containing all applicable requirements for the construction and operation that meet the general requirements identified above. Chapter 42 also includes a permit-by-rule for small animal incinerators containing all applicable requirements for the construction and operation that meet the general requirements identified above. The revisions include a new Appendix III that contains a list of insignificant activities identifying emission sources exempted from the permit application and emission reporting requirements. The rule was effective 20 November 2002. *For further information, please contact Thomas Lamberson, NDEQ, at (402) 471-2186.*

## **OTHER REGULATORY ACTIVITY**

(UPDATE) **2002 Section 303 Plan and 2002 303(d) List.** NDEQ has adopted the Methodology for Waterbody Assessment for the 2002 Section 303(d) List. The Department has used the Methodology for Waterbody Assessment to draft the 2002 303(d) list of impaired waters. The final 303(d) listing is being used to prepare TMDLs to facilitate water quality management efforts with the expectation of returning these waters to a full support status. The list was approved by the EPA and published in December 2002. *For further information, please contact John Bender, NDEQ, at (402) 471-4201.*

(UPDATE) **Development of Sediment and Phosphorus TMDLs.** NDEQ is developing sediment TMDLs for Yankee Hill Lake and Holmes Lake. Yankee Hill Lake was listed on the state's 1998 303(d) list of impaired waterbodies for sediment/siltation impairment and nutrients. The current TMDL development of Yankee Hill Lake address sediment and phosphorus. Holmes Lake is listed for sediment, nutrients, and low dissolved oxygen. *For further information, please contact Pat O'Brien, NDEQ, at (402) 471-3382.*

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### **Acronyms and Abbreviations**

ACSIM = Assistant Chief of Staff for Installation Management  
ADEQ = Arkansas Department of Environmental Quality  
USAEC = U.S. Army Environmental Center  
AFCEE = U.S. Air Force Center for Environmental Excellence  
AFIT = Air Force Institute of Technology  
ANSI = American National Standards Institute  
APA = American Planning Association  
AQCR = Air Quality Control Region  
AST = aboveground storage tank  
AWMA = Air & Waste Management Association  
CAA = Clean Air Act  
CADD = computer-aided design and drafting  
CAM = compliance assurance monitoring  
CAMU = corrective action management unit  
CARB = California Air Resources Board  
CBT = computer-based training  
CCAR = Coordinating Committee for Automotive Repair  
C&D = construction and demolition  
CECOS = Civil Engineer Corps Officers  
CERCLA = Comprehensive Environmental Response, Compensation and Liability Act  
CESQG = conditionally exempt small-quantity generator  
CFC = chlorofluorocarbon  
CFR = Code of Federal Regulations  
CHPPM = U.S. Army Center for Health Promotion and Preventative Medicine  
CISWI = commercial and industrial solid waste incinerator  
CO = carbon monoxide  
CREO = Central Regional Environmental Office  
CSR = Code of State Regulations  
CTT = closing, transferring and transferred ranges  
CWA = Clean Water Act  
DAC = Defense Ammunition Center  
DENIX = Defense Environmental Network & Information eXchange  
DERP = Defense Environmental Restoration Program  
DFW = Dallas/Fort Worth  
DoD = U.S. Department of Defense  
DOE = U.S. Department of Energy  
DOI = U.S. Department of Interior  
DOT = U.S. Department of Transportation  
DRMS = Defense Reutilization and Marketing Service  
DSMOA = Defense/State Memorandum of Agreement  
EA = environmental assessment  
ECAS = Environmental Compliance Assessment System  
ECHO = Enforcement and Compliance History Online  
ECOS = Environmental Council of the States  
ECSR = Environmental Compliance Status Report  
EIS = environmental impact statement  
EMR = environmental management review  
EMS = environmental management system



EO = executive order  
 EPA = U.S. Environmental Protection Agency  
 EPAS = Environmental Performance Assessment System  
 EPCRA = Emergency Planning and Community Right-to-Know Act  
 ER = environmental restoration  
 ERC = emission reduction credit  
 ERTTP = Environmental Response Training Program  
 ETMD = Environmental Training and Management Division  
 EVR = enhanced vapor recovery  
 FIFRA = Federal Insecticide, Fungicide and Rodenticide Act  
 FFEO = Federal Facilities Enforcement Office  
 FM = facilities management  
 FR = Federal Register  
 FS = feasibility study  
 FUDS = Formerly Used Defense Sites  
 FY = fiscal year  
 GAO = General Accounting Office  
 GIS = geographic information system  
 GSA = General Services Administration  
 HAP = hazardous air pollutant  
 HAZMAT = hazardous materials  
 HB = House Bill  
 HGA = Houston/Galveston Area  
 HM = hazardous material  
 HMIRS = Hazardous Materials Information Resource System  
 HMIWI = hospital/medical/infectious waste incinerator  
 HQ = headquarters  
 IAC = Iowa Administrative Code  
 IDNR = Iowa Department of Natural Resources  
 I&M = inspection and maintenance  
 IMI = Installation Management Institute  
 ISO = International Organization for Standardization  
 ISR = Installation Status Report  
 ITAM = Integrated Training Area Management  
 ITRC = Interstate Technology Regulatory Council  
 KAR = Kansas Administrative Rules  
 KCMA = Kansas City Metropolitan Area  
 KDA = Kansas Department of Agriculture  
 KDHE = Kansas Department of Health and Environment  
 kW = kilowatt  
 LAC = Louisiana Administrative Code  
 LB = legislative bill  
 LDEQ = Louisiana Department of Environmental Quality  
 LDR = land disposal restriction  
 LPDES = Louisiana Pollutant Discharge Elimination System  
 LPST = leaking petroleum storage tank  
 LT1 = Long Term 1  
 LUC = land use controls  
 LUST = leaking underground storage tank  
 MACT = maximum achievable control technology  
 MCL = maximum contaminant level  
 MDNR = Missouri Department of Natural Resources  
 MDS = minimum desirable streamflow  
 MEG = Missouri Environmental Group  
 mg/L = milligram per liter  
 mg/yr = megagrams per year  
 mph = mile per hour  
 MP&M = metal products and machinery  
 M2R = Military Munitions Rule  
 mrem/yr = millirem per year

MS4 = municipal separate storm sewer system  
MSDS = material safety data sheet  
MSWG = Multi-State Working Group  
MSWLF = municipal solid waste landfill  
MSWTS = municipal solid waste transfer station  
MTBE = methyl tertiary butyl ether  
MVECP = Motor Vehicle and Engine Compliance Program  
NAAQS = National Ambient Air Quality Standard  
NDEQ = Nebraska Department of Environmental Quality  
NDIA = National Defense Industrial Association  
NEPA = National Environmental Policy Act  
NESHAP = National Emission Standards for Hazardous Air Pollutants  
NFPA = National Fire Protection Association  
NGWA = National Ground Water Association  
NHPA = National Historic Preservation Act  
NMAC = New Mexico Administrative Code  
NMED = New Mexico Environment Department  
NOx = nitrogen oxides  
NORM = naturally occurring radioactive material  
NPDES = National Pollutant Discharge Elimination System  
NRC = Nuclear Regulatory Commission  
NREO = Northern Regional Environmental Office  
NSP = new source performance  
NSR = new source review  
OAC = Oklahoma Administrative Code  
ODEQ = Oklahoma Department of Environmental Quality  
OE = ordnance and explosives  
ORVR = onboard refueling vapor recovery  
OSHA = Occupational Safety and Health Administration  
OSPR = Oil Spill Prevention and Response Act  
OSSF = on-site sewage facility  
P2 = pollution prevention  
PASS = Permit Application Software System  
PBT = persistent bioaccumulative toxin  
PCB = polychlorinated biphenyl  
pCi/L = picocurie per liter  
PEMS = Predictive Emission Monitoring Systems  
P.L. = public law  
PM = particulate matter  
POC = point of contact  
POM = Program Objective Memorandum  
POTW = publicly owned treatment works  
ppb = part per billion  
ppm = part per million  
PSD = prevention of significant deterioration  
PST = petroleum storage tank  
PSTTF = Petroleum Storage Tank Trust Fund  
RACM = reasonably available control measures  
RACT = reasonably available control technology  
RCRA = Resource Conservation and Recovery Act  
REC = Regional Environmental Coordinator  
RFG = reformulated gasoline  
RI = remedial investigation  
RICE = reciprocating internal combustion engine  
ROD = record of decision  
SAME = Society of American Military Engineers  
SB = Senate Bill  
SDWA = Safe Drinking Water Act  
SDWIS = Safe Drinking Water Information System  
SERDP = Strategic Environmental Research and Development Program

SIP = State Implementation Plan  
SPCC = Spill Prevention, Control, and Countermeasure  
SREO = Southern Regional Environmental Office  
TAC = Texas Administrative Code  
TBD = to be determined  
TCEQ = Texas Commission on Environment Quality  
TCM = transportation control measure  
TERP = Texas Emissions Reduction Plan  
TIM = Transformation of Installation Management  
TMDL = total maximum daily load  
TPDES = Texas Pollutant Discharge Elimination System  
TRI = Toxics Release Inventory  
TRI-DDS = Toxics Release Inventory – Data Delivery System  
TRRP = Texas Risk Reduction Program  
TSCA = Toxic Substances Control Act  
tpy = tons per year  
TXEP = Texas Environmental Partnership  
ug/L = microgram per liter  
UIC = underground injection control  
USACE = U.S. Army Corps of Engineers  
U.S.C. = United States Code  
USFWS = U.S. Fish and Wildlife Service  
USGS = U.S. Geological Survey  
UST = underground storage tank  
UXO = unexploded ordnance  
VOC = volatile organic compound  
WET = whole effluent toxicity  
WMM = waste military munitions  
WQBEL = water quality-based effluent limit  
WQMP = Water Quality Management Plan  
WREO = Western Regional Environmental Office

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